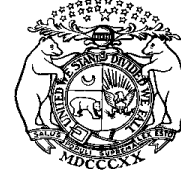


MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
4.470

CHAPTER Program Implementation & Records	SUBCHAPTER Release and Discharge Procedures	EFFECTIVE DATE July 1, 2008	NUMBER OF PAGES 3	PAGE NUMBER 1 of 3
SUBJECT Revocation of Conditional Release or Trial Release		AUTHORITY 552.040.16, RSMo	HISTORY Revises DOR 4.470 Effective 5/1/99	
PERSON RESPONSIBLE Director, CPS			SUNSET DATE July 1, 2011	

PURPOSE: Prescribes policies and procedures for revocation of immediate conditional, conditional release or trial release of criminally committed clients.

APPLICATION: Applies to Division of Comprehensive Psychiatric Services and Division of Mental Retardation and Developmental Disabilities.

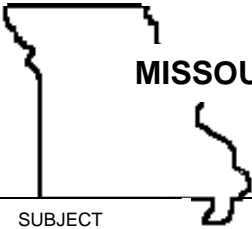
(1) The CPS director of forensic services may revoke the immediate conditional, conditional release or trial release of a client committed to the department under Section 552.040, RSMo only as set out in this DOR. Revocation shall be made if the forensic director has reasonable cause to believe the client has violated a condition of release or for whom re-hospitalization is the least restrictive alternative consistent with both the client's needs and the needs of public safety. The assigned forensic case monitor or a designated member of the treatment team shall promptly provide information supporting reasonable cause to the forensic director. If the forensic director decides to revoke the client's immediate conditional release, conditional release or trial release, the forensic director or designee shall complete DMH Form 8555, Order Revoking Conditional Release.

(2) The forensic director may request a peace officer in the jurisdiction in which the client can be found to return the client to the facility. Pursuant to Section 552.040.17, RSMo, no peace officer responsible for apprehending and returning the committed person to the facility upon the request of the forensic director shall be civilly liable for apprehending or transporting the client to the facility so long as such duties were performed in good faith and without negligence.

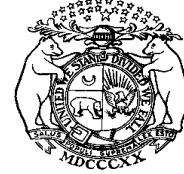
(3) Immediately upon the client's return to a DMH facility, the client shall be provided with DMH Form 8556, Notice to Resident of Revocation of Conditional Release, which will notify the client of the specific reasons the release is being considered for revocation.

(4) The forensic director or designee shall, as soon as possible, contact the local Assistant General Counsel to set up a revocation hearing. The Assistant General Counsel and the Hearings Administrator shall determine the date of the hearing. The forensic case monitor shall also be notified of the hearing date.

(5) The department director or designee shall conduct a hearing on revocation of conditional release within ninety-six (96) hours of the client's return to the facility, excluding Saturday, Sunday and legal holidays.



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(A) The department director or designee shall determine whether the client has violated a condition of release or whether inpatient hospitalization is the least restrictive alternative to meet the needs of the client and ensure safety of the public.

(B) The forensic director or designee shall provide written notification to the client of the time, date and location of the hearing no less than twenty-four (24) hours before the hearing using form 8557. If the hearing is continued, the client should receive an amended notice of the new hearing date and time no less than 24 hours prior to the reset hearing. However, if a continuation is requested at the time of or during the revocation hearing, then the Hearings Administrator may provide verbal notification of the date, time and location of the continued hearing to the client and any advocate, and shall do so on the record.

(C) The forensic director or designee shall advise clients of their right to have an advocate present during the hearing. Advocates may be an attorney, spouse, parent, relative, guardian or interested party to help clients present their cases and help question witnesses.

(D) Notice of right to an advocate shall be given by DMH Form 8557, Notice of Revocation Hearing, and documented by DMH Form 8558, which acknowledges personal service. Notice shall be served by the facility staff or forensic case monitor. The client should sign the notice, or a refusal to sign be witnessed by staff.

(E) The client or advocate may request an extension of time for the hearing beyond ninety-six (96) hours by contacting the Hearings Administrator who shall rule on the request.

(F) The burden of proof for revocation of conditional release shall be on the forensic director requesting the revocation.

(G) The Assistant General Counsel for DMH will represent the forensic director at the hearing.

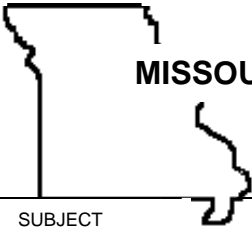
(H) A copy of all revocation paperwork including DMH Forms 8555, 8556, 8557 and 8558 will be forwarded to the assigned Assistant General Counsel.

(6) Within five (5) working days after the hearing, the department director or designee shall notify the client, the head of the facility, the forensic director, the forensic case monitor and the Assistant General Counsel who represented the facility in writing, of his or her findings.

(B) (A) If it is determined that a client has violated a condition of release or requires inpatient hospitalization, the facility shall continue to detain and treat the client in the facility. The forensic director or designee shall then notify the court which granted the conditional release that the conditional release has been revoked, and put a copy of same in the client file and provide a copy to the superintendent of the receiving facility.

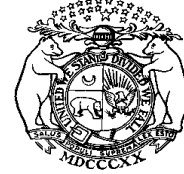
(B) If the Hearings Administrator does not uphold the forensic director's revocation, the facility shall release the client on receiving notice of the findings. Clients shall still be subject to terms of their conditional releases.

(C) (C) If the Hearings Administrator upholds the revocation, the client may appeal to the Circuit Court. The appeal may be made to the Circuit Court of the county in which the facility is located, or in Cole County, Missouri. The appeal may only be made within 30 days of the client's receipt of the Hearings Administrator's decision. The client shall remain an inpatient during the pendency of any such appeal.



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(7) At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee. If the released person is returned to the custody of the director, then the revocation process as previously outlined in this Chapter shall apply.

HISTORY: Original DOR effective August 1, 1986. Amendment effective September 1, 1994. Amendment effective August 1, 1998. Amendment effective July 1, 1999. Amendment effective January 15, 2002. Amendment effective July 1, 2005. On July 1, 2008 the sunset date was extended to July 1, 2011.